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ABSTRACT

The U.S. Senate will soon consider the reauthorization of the Elementary and Secondary Education Act (ESEA), the centerpiece of the federal government's involvement in public education. The Senate should consider at least three important improvements in the ESEA. The first is to make Title I of the ESEA, the provision for aid to disadvantaged students, a child-centered program. "Portability" of Title I funds should be increased, allowing Title I dollars to be attached to poor students and used for several types of programs. A second improvement would be to allow any state to opt for the Straight A's program (Academic Achievement for All), a program that reduces federal restrictions on the use of aid funds for educational reform. A third improvement would be to eliminate duplicated programs in ESEA and to focus the law on a few key national goals. In the reauthorization of the ESEA, Congress should fight for real policy changes instead of symbolism that reinforces the status quo. An appendix outlines key additions to and differences between the House and Senate Title I bills. (SLD)

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HOW THE SENATE CAN IMPROVE ESEA

April 28, 2000

Nina Shokraii Rees and Jennifer Garrett

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No. 1364 April 28 2000

How the Senate Can Improve ESEA

Nina Shokraii Rees and Jennifer Garrett[1]

The Senate will soon consider the reauthorization of the Elementary and Secondary Education Act (ESEA). Enacted in 1965 under President Lyndon B. Johnson, ESEA is the centerpiece of the federal government's involvement in K–12 public education. ESEA's chief program is Title I, Aid to Disadvantaged Students, which consumes 75 percent of ESEA funds and regulations. The program's goal is to close the achievement gap between rich and poor students.

Over its 35-year history, the 32-page ESEA has evolved into a massive volume containing more than 1,000 pages on over 60 programs, which range from basic aid for school districts to programs promoting gender equity, school safety, and technology. All told, ESEA includes almost $14 billion per year in budget authority.

ESEA funding comprises only a portion of the total dollars spent on education, yet this money carries with it a plethora of red tape and the Washington-knows-best mentality. Some of ESEA's mandates explicitly stand in the way of creative state and local reforms; others force state and local officials to be more concerned with paperwork than with performance. ESEA has gone through seven reauthorization cycles since its inception, yet its chief beneficiaries, America's poor students, continue to lag behind their peers by as much as 20 percentage points on academic achievement tests. In some districts, the gap in achievement between rich and poor children has widened over the years. President Johnson's goal of saving poor students from educational mediocrity may be very much alive, but the program he created is clearly failing to achieve this goal.

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Despite President Bill Clinton's calls for more accountability in education, the weary but heavy hands of the federal education establishment maintain a tight grip on the system, content with the status quo.

So far, Congress has done slightly better. Two significant amendments to the ESEA authorizing legislation—Title I portability and "Straight As" (Academic Achievement for All)—were recently

1. The authors thank Kirk Johnson, Policy Analyst in the Center for Data Analysis, for assembling the tables in this paper.

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approved by the Senate's Health, Education, Labor, and Pensions (HELP) Committee, albeit by narrow margins. If enacted, they would break new ground by offering some states significant options to innovate beyond the limits of the existing ESEA program.

Under the approved Title I portability plan, for example, 10 states and 20 school districts in other states could strap Title I dollars to the backs of their low-income students, allowing them to carry that money to a better performing public school, a private tutoring service, or an after-school program of choice. Under the approved Straight A's plan, 15 states and an unlimited number of school districts could spend federal dollars on reforms of their choice so long as they boost the academic achievement of all their students, especially low-income children.

It is important to note, however, that neither of these approaches will change the basic architecture of ESEA. When the ESEA reauthorization bill reaches the Senate floor this year, members will have an opportunity to strengthen the program with provisions that would lay the foundation for innovative reforms in the future. Such reforms should give all states the flexibility and the incentive to find creative ways to boost results, just as Congress did in its historic reform of the welfare system.

The full Senate should consider at least three important improvements in ESEA:

1. **Make Title I a child-centered program.** The committee-approved bill would allow only a limited number of interested states and localities to attach Title I funding to poor students. Instead of being merely an option for some states or districts, portability should be a nationwide entitlement for disadvantaged students, similar to the Pell Grant program.
2. **Allow any state to opt for Straight A's.** The committee-approved bill allows only 15 states to apply for this bold slashing of federal restrictions in return for guaranteed gains in student achievement. The option should be available to every state that wants it.
3. **Eliminate duplicative programs in ESEA and focus the law on a few key national goals.** Since the HELP Committee failed to make substantive changes in the underlying ESEA, the Senate should restructure ESEA's programs to emphasize a few important objectives. Legislation already has been introduced by Senators Joseph Lieberman (D–CT) and Evan Bayh (D–IN) to accomplish this. Unfortunately, while this plan consolidates and streamlines many programs, it also leaves numerous strings in place and adds red tape. A better approach would be to craft a refined (and deregulated) version of the Lieberman–Bayh plan.

In the end, the goal should be an ESEA plan that respects state and local rights but also empowers parents, especially low-income parents. The plan now before the Senate takes a few small steps in this direction. Long strides are needed.

WHAT'S WRONG WITH ESEA

The 1965 Elementary and Secondary Education Act (ESEA), the centerpiece of the federal government's involvement in K–12 education, was created primarily to close the achievement gap between rich and poor students. Today, it involves over 1,000 pages on more than 60 programs with almost $14 billion in budget authority. (See Table 1.) Even though federal funds comprise only 7 percent of America's public school revenues, some of the mandates in ESEA explicitly prevent state implementation of creative reform; others are focused more on paperwork than on performance.[2] For example:

- In Arizona, approximately 45 percent of the state's education personnel oversee the administration of federal dollars.
- In Florida, the number of people required to administer a federal education dollar is six

2. Nina Shokraii Rees and Jacqueline Curnutte, "Accountability 101: Why the President's Education Proposals Won't Make the Grade," Heritage Foundation *Backgrounder* No. 1286, May 28, 1999.

NOTE: Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

Table 1 B1364

Department of Education Total Appropriations for ESEA, 2000–2001

	Thousands of Dollars	
	2000	2001 Request
ESEA - Title I	8,678,986	9,119,500
Impact Aid (ESEA VIII)	906,452	770,000
Education Reform:		
21st Century Learning Centers	453,377	1,000,000
Small, Safe & Successful High Schools	0	120,000
Technology Literacy Challenge Fund	425,000	450,000
Technology Innov. Challenge Grants	146,255	0
Next-Generation Technology Innovation	0	170,000
Regional Technology in Education Consortia	10,000	10,000
Teacher Training in Technology	75,000	150,000
Community Technology Centers	32,500	100,000
Technology Leadership Activities	2,000	2,000
Star Schools	50,550	0
Ready to Learn Television	16,000	16,000
Telecom. for Professional Development	0	5,000
Telecom. Demonstration Project for Math	8,500	0
Recognition & Reward	0	50,000
Subtotal, Education Reform	1,219,182	2,073,000
School Improvement Programs:		
Teaching to High Standards	0	690,000
ESEA II & VI (Eisenh. & Innov. State)	700,750	0
Class Size Reduction	1,300,000	1,750,000
Safe & Drug Free Schools	600,000	650,000
School Leadership Initiative	0	40,000
Nat. Activities for Improvement of Teaching & School Leadership	0	25,000
Hometown Teachers	0	75,000
Higher Standards, Higher Pay	0	50,000
Teacher Quality Incentives	0	50,000
Troops to Teachers	0	25,000
Early Childhood Educator Prof. Dev.	0	30,000
OPTIONS	0	20,000

Source: U.S. Department of Education, unpublished tables.

Table 1 (Continued) B1364

Department of Education Total Appropriations for ESEA, 2000–2001

	Thousands of Dollars	
	2000	2001 Request
School Improvement Programs (Continued):		
Charter Schools	$145,000	$175,000
Strengthening TA Capacity Grants	0	38,000
Comp. Regional Centers	28,000	0
Eisenhower Prof. Dev. Fed. Activities	23,300	0
Eisenhower Math/Science	15,000	15,000
Inexpensive Book Distribution	20,000	20,000
Arts in Education	11,500	23,000
Law Related Education	0	0
Magnet Schools	110,000	110,000
Native Hawaiians	23,000	23,000
Alaska Natives	13,000	13,000
WEEA	3,000	3,000
Gen. Assistance to Virgin Islands	0	0
Dropout Prevention Demos	0	0
Ellender Fellowships	1,500	0
Parental Info. Resource Centers	[33,000]	33,000
Subtotal, School Imprv.	2,994,050	3,168,000
Reading Excellence (ESEA II-C)	260,000	286,000
Indian Education	77,000	115,500
School Renovation	0	1,300,000
Bilingual Education	406,000	460,000
Educ. Res., Statistics & Improvement:		
FIE	243,864	137,150
Gifted & Talented Children	6,500	7,500
Civic Education	9,850	9,850
National Diffusion Network	0	0
Blue Ribbon Schools	0	0
Territorial Teacher Training	0	0
National Writing Project	9,000	10,000
International Education Exchange	[9,000]	8,000
Subtotal, ERSI	269,214	172,500
Total	14,810,884	17,464,500

Source: U.S. Department of Education, unpublished tables.

times greater than the number needed to administer one state dollar.

- In Georgia, nearly 30 percent of the state's education employees work full-time to administer the federal programs.[3]

Most ESEA funds arrive in the states as grants to state education agencies (SEAs) or local education agencies (LEAs). Under this "grant-in-aid" process, federal dollars are allocated by formula or through a grant competition. Each categorical program has a specified purpose and target population. In return for the funds, states and localities must comply with regulations that include the general requirements for categorical programs (such as how the funds are to be administered or who is to be served); crosscutting rules for all federal grants (such as nondiscrimination); and requirements related to other legislation.[4]

In 1994, Congress added specific measures to the administration of ESEA's chief program, Title I Aid to Disadvantaged Students. Intended to demand the academic results that funding under the first three decades of this massive program failed to produce, the 1994 amendments—known as "standards-based reforms"—stipulated that states must develop and align three objectives by the beginning of the 2000–2001 school year: (1) challenging curriculum standards for learning; (2) a statewide assessment of knowledge keyed to these standards; and (3) rigorous performance standards for all students and schools.

Despite these changes and other changes in the law over the course of seven reauthorization cycles, however, poor students continue to lag behind their peers.

- On the 1998 National Assessment of Educational Progress (NAEP) tests, poor students scored below their more affluent peers by 20 percentage points.
- Only 42 percent of students in the highest poverty schools scored at or above NAEP's "Basic" level for reading, while 62 percent of students in all public schools met that standard.
- Only 13 percent of low-income 4th graders attained NAEP's "Proficient" level, compared with 40 percent of higher income students.

The current ESEA approach explicitly prohibits Title I funds from following needy students to a school of choice. It clearly assumes that education bureaucrats, not parents, are the most qualified judges of how poor students should be educated. The law also prevents states from focusing their entire share of ESEA funds on their own unique education priorities. More important, ESEA lacks the rewards and sanctions needed to precipitate change at the state and local levels. Whether states fail or excel, they continue receiving their portion of ESEA funding.

THE ADMINISTRATION'S REMEDY

Instead of taking a page from the successful efforts at devolution that have taken place at the state level (or from Washington's own successful overhaul of the welfare system), the Clinton Administration has opted to stay the course, making only a few cosmetic changes in ESEA and a series of input-driven reforms.

A good example is the Administration's fixation on reducing class size by hiring new teachers and building additional schools. Though both efforts may be welcome in some places, they certainly are not needed everywhere in the country. The Clinton Administration's plan rests on the premise that Washington bureaucrats are more in tune with the needs of schools than are local school boards and community members.

The Administration wants to continue allocating funds to states and school districts on the condition that they will enact prescribed reforms. These stipulations are in stark contrast to an approach that gives states the flexibility to find innovative ways to raise student achievement and reward those schools that succeed in doing so. In any

3. *Ibid.*
4. *Ibid.*

case, the Administration's "reforms" do little to boost academic achievement and thus will fail either to solve the nation's foremost education problems or to attain the long-time objectives of ESEA.

HOUSE ACTION: A STEP IN THE RIGHT DIRECTION

In the fall of 1999, the House reauthorized several key provisions of ESEA in H.R. 2, the Student Results Act, including Title I Aid to Disadvantaged Students and Title II Teacher Professional Development. The most significant component of H.R. 2 is a pilot provision known as Academic Achievement for All (or "Straight A's"), which offers 10 interested states or any school district the freedom to consolidate their federal ESEA funding and use it on the reform or reforms of their choice in exchange for boosting student achievement.

Specifically, the House-approved provision:

1. **Boosts Title I accountability but fails to empower needy students.** The House plan increases the amount of accountability in the Title I program (see Appendix I) by, for instance, requiring states to provide detailed report cards on school performance. The House makes no substantial changes in the Title I program itself so that funding would follow poor students to the school of their choice (as Pell Grants now do) rather than to school systems. House lawmakers did enact a provision to allow students in failing Title I schools to attend a public school of choice, using Title I funding for transportation purposes, but this is a far cry from turning the program into a child-centered funding stream. Indeed, while Title I dollars may be used for transportation, they may not be used for education services in the new school.
2. **Dilutes the use of Title I funds even further.** The House lowered the threshold for schools to use Title I funding on "schoolwide" programs. Today, schools in which Title I students comprise at least 50 percent of the student body may use these federal dollars for programs and activities affecting the entire school instead of focusing the dollars on individual students. Though such schoolwide programs are popular with local officials and principals, it is not clear that they are effective in reducing the achievement gap. As George Farkas, a social scientist at the University of Texas at Dallas, noted, schoolwide reforms "are often quite expensive to implement, and too often they are not effective."[5] The U.S. Department of Education is conducting a study of the impact of schoolwide programs but has arranged the study so that the findings will not be available until 2001, long after the present reauthorization cycle is concluded. Before expanding the schoolwide approach, Congress should insist on evidence that it works.
3. **Increases funding and flexibility for states to hire and train teachers.** By combining funding for Goals 2000, the White House class-size reduction initiative, and ESEA's Title II, the House bill increases funding for states to hire and train teachers. It also eliminates incentives in the existing Title II program to hire teachers certified by the National Board for Professional Teaching Standards (NBPTS), since no rigorous study points to the effectiveness of receiving such certification.[6]
4. **Incorporates a pilot Straight A's program.** Perhaps the most significant reform passed by the House is a pilot that would give up to 10 states (and an unlimited number of school districts) maximum flexibility to use their share of federal funding on the reforms of their choice as long as they can show that their

5. George Farkas and L. Shane Hall, "Can Title I Attain Its Goal?" draft prepared for presentation at Brookings Institution conference on reauthorization of the Elementary and Secondary Education Act, Washington, D.C., May 1999.
6. Danielle D. Wilcox, "The National Board for Professional Teaching Standards: Can It Live Up to Its Promise?" in Marci Kanstoroom and Chester E. Finn, Jr., eds., *Better Teachers, Better Schools*, Thomas B. Fordham Foundation and the Education Leaders Council, July 1999.

investments have raised academic achievement among low-income students. In effect, the Straight A's states would become giant charter schools. Like charter schools, they would be given considerable fiscal and legal autonomy in exchange for agreed-upon academic results. If they failed to adhere to the terms of their charters, they would have to shut down; if they succeeded, they would remain in business, likely attracting more students and funding. With Straight A's, ten states for the first time would have a choice between the existing regulated ESEA regime and a deregulated but more accountable alternative. The House pilot is a step in the right direction but contains two flaws.

- The bill allows just 10 states to apply for this important new flexibility, constraining the pace of change in the status quo. Indeed, because the underlying ESEA is so heavy on rules and regulations—especially in Title I—40 states would have to continue complying with a dizzying array of federal requirements, some of which have little to do with academic achievement. To force 40 states to continue down a path laid out 35 years ago is folly.
- A school district "hold harmless" provision under Title I places a significant constraint even on states that do participate in Straight A's by requiring them to use the existing formula to allocate Title I funds to every district that currently receives funding. Because most of the funding and regulations in Straight A's is part of Title I, this provision would be a considerable hindrance to a state's ability to innovate. If a state participates in Straight A's, it should have full fiscal autonomy to allocate all its ESEA dollars to the education strategies that it judges most promising as long as those strategies yield the desired academic outcomes.

The House Straight A's plan is a victory for serious education reform, but it is a partial and flawed one.

How Straight A's Would Work

States that participate in a Straight A's program would have full fiscal autonomy to allocate ESEA dollars to the education strategies they judge most promising as long as those programs yield the stipulated academic outcomes. If, for example, Florida decided to participate in Straight A's, it would select the formula-based K–12 program funding streams it wished to commingle. (Virtually all formula-based ESEA programs are eligible; see Table 2.) It would outline in a contract with the Secretary of Education how it planned to spend this money and the target test results it hoped to achieve to decrease the achievement gap between rich and poor students. Florida would then send the U.S. Secretary of Education baseline data to show the current academic levels of its students, disaggregated by socioeconomic background.

Next, the U.S. Department of Education would send Florida a single check for $695,209,131 (see Table 3) and a contract stipulating the academic gains Florida promised to attain, and indeed must achieve. If Florida achieved these results, Washington would provide a cash bonus. If it failed to do so, its Straight A's flexibility in programming would be terminated. (Under egregious circumstances, states or local districts should also incur fiscal sanctions, though the current Straight A's plan would cut back only on administrative overhead.)

SENATE HELP COMMITTEE ACTION: TWO STEPS IN THE RIGHT DIRECTION

Now the full Senate will consider S. 2 to reauthorize ESEA. The bill voted out of the HELP Committee contains excellent amendments; but even with those improvements, ESEA would retain the same basic structure that President Johnson instituted in 1965. Thus, the committee bill is essentially a status quo measure to which a few worthy provisions have been added.

Table 2 B1364

Programs Included in Straight A's

	2000 Appropriation
Goals 2000	$458,000,000
Title I Grants to LEAs	7,941,397,000
Title I Even Start	150,000,000
Title I Migrant	354,689,000
Title I Neglected/Delinquent	42,000,000
Title I Comprehensive School Reform	170,000,000
Title I Capital Expenses for Private School Children	12,000,000
Title II Eisenhower State Grants	335,000,000
Title III Technology Literacy Challenge Fund	425,000,000
Title IV Safe and Drug Free Schools	445,000,000
Title VI Innovative Education Program Strategies	380,000,000
Title VI Class Size Reduction	1,300,000,000
Title VII Immigrant Education	150,000,000
Sec. 307 Class Size Reduction	1,300,000,000
Education for Homeless Children	28,800,000
Perkins Voc/Ed State Grants	1,055,650,000
Perkins Voc/Ed Technology Prep	106,000,000
Total	14,653,536,000

Source: "FY 2000 State Tables for Formula-Allocated and Selected Student Aid Programs, by Program," at http://www.ed.gov/offices/OUS/Budget00/00stbypr.pdf

The Good

The Senate bill offers several improvements over current law. Specifically, it:

- **Expands the number of Straight A's demonstration projects.** S. 2 would allow 15 states (compared with 10 in the House bill) and an unlimited number of school districts to enter into a contractual agreement with the U.S. Secretary of Education to boost the academic achievement of their students in exchange for considerable flexibility and freedom from red tape in spending ESEA funds.

- **Provides Title I portability.** As reported out by the HELP Committee, the bill allows 10 states and 20 localities in other states the option of making Title I a child-centered plan. Current law explicitly prohibits Title I funds from following needy students to a school of choice. Under the HELP Committee portability plan, a parent who is not satisfied with the quality of service in a Title I school would have a chance to take the child and his or her Title I per-pupil allocation to a better public school or to a private remedial education provider, so long as the funding is used to boost the child's educational attainment. (The funding could not, however, be used for tuition at regular private schools.) (See Appendix I)

- **Increases funding and flexibility for states to hire and train teachers.** Like H.R.2, S. 2 also contains a measure designed to offer states additional funding and flexibility to recruit and train teachers, with a focus on districts that have a high proportion of poor students. The measure would consolidate funding in Title II (the Eisenhower Math and Science Program) and the President's class-size reduction funding.

The Bad

Despite these good features, S. 2 has significant flaws. Specifically, it includes:

- **More Funding for Title I without meaningful changes in the underlying program.** The committee-approved bill would increase funding for Title I, as if the level of spending were the measure of lawmakers' commitment to America's children. This race to add dollars to failed or even ineffective programs ignores the fact that the key to improving education is not how much money is spent, but the results it buys. After 35 years, it is clear that Title I in its present form yields too few results. As historian Maris Vinovskis notes, "the problem is not the limited amount of federal money available for assisting disadvantaged students, but spending the existing monies wisely."[7] Since 1965, over $125 billion has been spent on Title I, yet the program has failed to achieve its only goal: closing the achievement gap

Table 3 B1364

What Straight A's Means for Each State

	2000 Appropriation		2000 Appropriation
Alabama	$235,736,266	New Mexico	$118,809,812
Alaska	55,243,220	New York	1,255,719,235
Arizona	233,761,843	North Carolina	296,489,457
Arkansas	146,730,305	North Dakota	48,199,175
California	1,801,750,971	Ohio	552,360,478
Colorado	150,134,645	Oklahoma	176,121,805
Connecticut	133,496,604	Oregon	147,274,841
Delaware	49,699,966	Pennsylvania	609,726,408
District of Columbia	55,090,628	Rhode Island	56,211,382
Florida	695,209,131	South Carolina	183,930,183
Georgia	386,077,084	South Dakota	48,727,198
Hawaii	49,935,089	Tennessee	246,865,120
Idaho	59,151,100	Texas	1,240,020,814
Illinois	599,888,439	Utah	85,919,764
Indiana	234,955,856	Vermont	46,485,953
Iowa	109,354,547	Virginia	237,724,191
Kansas	121,048,336	Washington	233,327,708
Kentucky	240,002,616	West Virginia	127,521,481
Louisiana	336,291,250	Wisconsin	238,228,552
Maine	66,412,126	Wyoming	45,722,468
Maryland	198,515,432	American Samoa	9,288,967
Massachusetts	277,414,257	Guam	13,143,841
Michigan	598,728,231	Northern Marianas	5,328,812
Minnesota	181,604,969	Puerto Rico	442,735,804
Mississippi	217,207,651	Virgin Islands	16,634,935
Missouri	251,123,020	Palau	0
Montana	56,487,351	Marshall Islands	134,024
Nebraska	70,996,838	Micronesia	395,257
Nevada	55,301,818	Indian Tribes Set-Aside	89,191,328
New Hampshire	49,116,921	Other Non-State Allocations	34,156,300
New Jersey	330,674,197	Total	14,653,536,000

Source: "FY 2000 State Tables for Formula-Allocated and Selected Student Aid Programs, by Program," at *http://www.ed.gov/offices/OUS/Budget00/00stbypr.pdf.*

between rich and poor students. Spending more on a failed program is throwing good money after bad.

- **Limited portability for low-income students.** Under the committee-approved bill, only 10 states and 20 school districts in other states would be allowed to attach Title I funding to poor students so they could seek remedial education at a better public or private provider of choice. Instead of making this choice an education right for any poor child and turning

7. Maris A. Vinovskis, "Do Federal Compensatory Education Programs Really Work? A Brief Historical Analysis of Title I and Head Start," *American Journal of Education*, Vol. 107, No. 3 (May 1999).

Title I into a Pell Grant–like program, Senate lawmakers would embrace a timid approach that delays much-needed change in the education of all low-income students. The only way to ensure that Title I serves the needs of poor students is to insist that every state be able to attach its Title I funding to its low-income students. This option would allow the funding to move with students to a school of choice—and state laws would determine the extent of portability.

- **Dilutes the use of Title I funds even further.** Like the House bill, an amendment ratified by the HELP Committee would lower the threshold for schools to use Title I funding on "schoolwide" programs to 40 percent, even though Congress lacks any scientific evidence that schoolwide programs work.
- **Allows only limited Straight A's experimentation.** Like the House bill, the Straight A's package in the Senate bill is merely a pilot program with Title I dollars "held harmless." Only 15 states, not all 50, could apply for the flexibility. In addition, participating states would not have full control to channel their Title I funding to where they think the money is most needed; rather, they would have to assure that most of the funding reached school districts currently sreving under the Title I formula.
- **Contains a "faux" flexibility package.** The Senate bill would allow any interested state to sign a "performance partnership" with Washington that swaps flexibility in the use of ESEA funds for improved academic achievement. Disguised as a flexibility plan, the performance partnerships are little more than window dressing. The plans may appear similar to Straight A's contracts, but in fact they differ in three crucial ways.

  First, the "performance partnerships" would keep the burdensome Title I formula intact. By omitting flexibility with respect to Title I dollars, the partnership would do little to encourage serious reform. Title I comprises three-fourths of the ESEA budget and accounts for most of the red tape, particularly with respect to where the money must be spent, because of its 35-year-old preoccupation with dollar distribution formulas and the lack of attention to academic achievement. By keeping troublesome strings tied to Title I funds, the performance partnership plan would seriously limit the ability of states to use federal funding to implement their own reforms. School districts would not be able to use Title I dollars for some of the most promising reform mechanisms for disadvantaged students, such as starting charter schools or investing in teacher training.

  Second, it would restrict state flexibility further by broadening the U.S. Department of Education's role in defining, maintaining, and concluding a state's partnership agreement with Washington. This would give the Secretary of Education unprecedented power in an area that traditionally has been the responsibility of states and localities. Empowering Washington bureaucrats to monitor state efforts to reform schools is akin to placing the fox in charge of the henhouse. It will discourage innovative states from even applying for flexibility.

  Finally, it would limit flexibility while augmenting accountability. The success of welfare reform and charter schools rests on a delicate balance between flexibility and accountability. With welfare, states were given control over their federal dollars and held responsible for reducing dependency. States with strong charter laws fully entrust their charter school principals with the day-to-day operation of their schools but hold them accountable for results. The Senate "performance partnership" provision tips this delicate balance in favor of accountability, thus violating the old maxim that one cannot be expected to exercise responsibility without authority.

Improving the Senate's ESEA Bill

The Senate has the opportunity to steer ESEA reform in the right direction by making the program more accountable and child-centered. The

underlying ESEA package should empower poor parents instead of school systems, and should eliminate duplicative and ineffective programs while allowing every state the option of becoming a charter state.

To this end, the Senate should consider the following options:

1. **Make Title I a true child-centered program in exchange for raising the Title I authorization level.** Instead of making portability an option for 10 states and 20 school districts and diluting Title I funding by encouraging more "schoolwide" programs, policymakers should make Title I funding portability an education right for low-income students. Title I should be turned into a Pell Grant–like program. All poor children should be entitled to receive their share of federal dollars and take them to a school of choice (to the extent that choice is permitted by state laws and constitutions). In other words, federal dollars should be as portable as a state allows its own dollars to be.

2. **Strengthen the Straight A's provision** by lifting the cap on the number of states that can apply to become Straight A's states and removing any restrictions on how they spend their Title I dollars. This means also scrapping the "performance partnership proposal," since the partnerships will do little to bring about change and are confusing.

3. **Eliminate duplicative programs in ESEA and focus the law on a few key national goals.** Since substantive changes in the underlying ESEA programs are not proposed in the reauthorization bill, Congress should try to restructure its programs and focus them on achieving a few key national goals. Legislation has been introduced by Senators Joseph Lieberman (D–CT) and Evan Bayh (D–IN) to accomplish this. Their Public Education Reinvestment, Reinvention, and Responsibility Act—known as the "3 R's"—focuses, for example, on the following goals: (1) closing the achievement gap between rich and poor students; (2) raising teacher quality; (3) helping limited English proficient (LEP) students learn English; (4) promoting public school choice; (5) encouraging innovative strategies; and (6) promoting accountability.

   Unfortunately, however, although the Lieberman–Bayh plan would streamline many programs, it also would leave numerous strings in place and add new requirements that would further burden states and school districts. Their proposal could be improved by:

   - **Eliminating** the strings placed on states. The spirit behind the Lieberman–Bayh plan is to exchange flexibility for results. To this end, it should fully empower states or districts to produce those results. This means eliminating requirements about where dollars must go and how they must be spent.
   - **Allocation** the Title I Aid to Disadvantaged Students funding stream to children. The Lieberman–Bayh bill adds myriad requirements for states to target funding to schools with a high percentage of low-income students. This provision, however, ignores parents and the market-based forces needed to help speed the pace of change. In effect, it continues to leave reform in the hands of district and state officials. The best way to reform Title I is through the aforementioned portability plan: by attaching the dollars to poor students and allowing their parents the freedom to choose their school (or other education provider).
   - **Removing** its class-size reduction mandate. The Lieberman–Bayh bill would allocate federal dollars to reduce class size by hiring more teachers, even though the evidence to date is extremely shaky as to whether this expensive reform would help solve education problems in America's schools. States should be given the option to use those resources for other reforms that they judge more urgent or promising.
   - **Eliminating** the emphasis on professional development and National Board certifica-

tion. The Lieberman–Bayh plan continues to expect that existing professional development programs produce better quality teachers. There is no evidence that certified teachers or National Board-certified teachers achieve better results in the classroom.[8]

CONCLUSION

The Senate has an historic opportunity to modernize the 35-year-old ESEA, a massive hulk of federal programming and funding. This can be accomplished only by enacting critical reforms that empower parents and give interested states and school districts the flexibility to implement innovative and measurable ways to serve disadvantaged children. The latter approach is the only way for Washington to see whether its highly regulated programs are indeed the right solutions.

When the Senate considers the reauthorization of ESEA, it can assure that these goals can be achieved by strengthening the Straight A's provision, expanding Title I portability, and restructuring the remaining components of ESEA to focus on real results. Congress should fight for real policy changes instead of empty symbolism that reinforces the status quo. Education is a top priority for American families. They deserve more from Washington than throwing more money into programs that are not working.

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8. See, for instance, Kanstoroom and Finn, *Better Teachers, Better Schools*.

APPENDIX I

Key Additions to and Differences Between the House and Senate Title I Bills

	House	Senate
Funding	Formula is same as current law. Authorizes $9.8 billion in Title I funding.	Formula is same as current law. Authorizes an increase in Title I funding to $15 billion.
	Eliminates the authorization for the (currently unfunded) Education Finance Incentive Grant formula.	Provides that 50 percent of any Part A appropriations in excess of $8.076 billion would be reserved for a separate allocation to the states to be used for program improvement and corrective action with respect to schools or LEAs not meeting state standards of adequate yearly progress.
	Updates provisions regarding the share of funds allocated under the Targeted Grant formula, but this updated guidance may continue to be ignored in the appropriations process.	Updates provisions regarding the share of funds allocated under the Targeted Grant formula, but this updated guidance may continue to be ignored in the appropriations process.
	Adds a hold harmless provision for Concentration Grants (not in the current authorizing statute, although such provisions have been added in the appropriations acts of recent years).	Adds a hold harmless provision for Concentration Grants (not in the current authorizing statute, although such provisions have been added in the appropriations acts of recent years).
School Choice	LEAs would be required to offer public school choice options, consistent with state and local law, policy, and practice, to pupils who are attending schools determined to be in need of improvement or who have been victims of violent crime at school.	Allows up to 10 states and 20 LEAs in other states to let Title I dollars follow students to a public school or private provider of choice if the services offered at their current school do not meet their needs.
		Provides that if a child is in a failing school after two years, the parent has the option of moving the child to another public school. If the school is still failing after four years, the school would pay the cost of transporting the children in the school to another public school in the district.
		Any Title I student who is the victim of a violent criminal offense on public school grounds would be allowed to transfer to another public school or charter school in the same state. (Title I funds may be used for transportation costs of a student who transfers to another school.)

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Key Additions to and Differences Between the House and Senate Title I Bills

	House	Senate
Accountability	Requires states and school districts to establish annual numerical goals for improving the performance of each subgroup of children (subgroups are defined as: gender, each major racial and ethnic group, migrant or non-migrant, poor or non-poor, disabled or non-disabled, limited English proficient [LEP] or non-LEP). Requires states and school districts to establish annual numeric goals for reducing the achievement gap. Requires states and school districts to establish a 10-year timeline for ensuring that each group of students meets or exceeds the state's proficient levels of performance within said timeline.	No provision beyond current law.
School Report Cards	School districts receiving Title I funding will distribute information to parents and the public on the academic performance of each Title I school.	Requires the annual performance reports to be prepared for each participating LEA and school. Reports do not have to be distributed directly to parents.
Limited English Proficient Students	Requires that reading tests be administered in English for pupils who have been in the United States for three years. Requires school officials to seek the informed consent of parents before placing their children in a native-language instruction program for limited English proficient children funded under Title I.	Requires that reading tests be administered in English for pupils who have been in the United States for three years.
Rewards and Sanctions	States are ineligible to receive administrative funds if they have not met statutory deadlines for getting their standards and assessments in place. Rewards excellence by giving states the option of setting aside up to 30 percent of all new Title I funding to provide cash rewards to schools that make substantial progress in closing achievement gaps between students.	N/A
Para-professionals	Modifies the requirements regarding use of Title I funds to hire teacher aides or para-professionals in three ways: (1) There would be a "freeze" on the number of aides LEAs could hire with Title I funds—new aides could be hired, but only to replace aides who leave their jobs (except for LEAs in which all teachers are "fully qualified"); (2) aides who are hired one year or more after the bill's	N/A

Key Additions to and Differences Between the House and Senate Title I Bills

	House	Senate
Para-professionals (Continued)	effective date, and all aides (except those employed as translators or for parental involvement activities) within three years, would be required to have completed at least two years of higher education or to "have met a rigorous standard of quality that demonstrates, through a formal assessment, knowledge of, and the ability to assist in instructing, reading, writing, and math"; and (3) the instructional and other services that the aides may provide would be broadly specified. The bill would also require each state receiving Title I funds to develop a plan under which all public school teachers must be "fully qualified" by December 31, 2003.	
School Improvement	A school identified for school improvement must have a comprehensive plan for improving school performance. (Note: Under current law, there is a school plan requirement; but under this bill, the plan requirements are more closely tied to student achievement.) Requires school districts to take at least one corrective action against the school (e.g., withhold funds, decrease decisionmaking, alternative governance arrangements, reconstitute the school).	Similar House Bill
Schoolwide Programs	Reduces the standard eligibility threshold for schoolwide programs from 50 percent to 40 percent.	Similar House Bill
Services to Private Schools	Revises Title I provisions for services to eligible private school pupils to increase requirements for consultation between public and private school authorities over a variety of issues, including the selection of third-party contractors to provide services. Would clarify rules for determining the share of LEA funds to be used to serve private school pupils; and would broaden the circumstances under which the Secretary of Education might "bypass" the LEA to provide Title I services to private school pupils.	Similar House Bill
Other Provisions	Requires participating states to adopt standards and assessments in science in addition to reading/language arts and mathematics.	N/A

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Backgrounder
Executive Summary

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How the Senate Can Improve ESEA

Nina Shokraii Rees and Jennifer Garrett

The full Senate will soon consider the reauthorization of the 35-year-old Elementary and Secondary Education Act (ESEA). This law, enacted under President Lyndon B. Johnson as part of his Great Society initiative, was intended primarily to narrow the achievement gap between disadvantaged children and their more prosperous classmates. During the past quarter century, however, its scope has broadened considerably and its focus has blurred. In addition, despite total spending of more than $125 billion, results are dismal: Poor students still lag behind their peers by an average of 20 percentage points on national achievement tests.

The Clinton Administration's ESEA reauthorization plan urges Congress to "stay the course." Despite calls for more accountability, the President and his allies have not been able to shake off the weary but heavy hands of the education establishment, which is content with the status quo.

Congress has done slightly better. Two significant amendments, recently approved (by close votes) in the Senate's Health, Education, Labor, and Pensions (HELP) Committee, would break important ground to change this record by offering states significant new options: Title I portability and "Straight As" (Academic Achievement for All) accountability.

Under Title I portability, 10 states and 20 school districts in other states would have the option of strapping Title I dollars to the backs of low-income students, allowing them to carry that money to a better performing public school, a private tutoring service, or an after-school program of choice. Under the HELP-approved Straight As plan, 15 states and an unlimited number of school districts would gain the freedom to spend federal dollars on the reforms of their choice so long as they guaranteed that they would boost the academic achievement of all their students, especially low-income youngsters.

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It is important to note that neither of these "improvements" will change the basic structure of ESEA, which funds over 60 programs. Together, however, the changes do offer some reform-minded governors and local leaders the option to

transform K–12 programs so that they can benefit disadvantaged students more effectively. Moreover, the reauthorization process offers the Senate a real opportunity to include provisions laying the foundation for innovative reforms, such as giving all states the flexibility and the incentive to boost educational achievement. Like the changes that enabled states to innovate and improve the welfare system, these reforms represent an historic opportunity that should not be missed.

When ESEA reaches the Senate floor, members ought to consider at least three important improvements:

1. **Make Title I a child-centered program.** The committee bill currently allows only a limited number of interested states to attach Title I funding to poor students. Instead of making portability a state option, the Senate should make it a nationwide educational right for disadvantaged students, akin to the Pell Grant program. All poor children should be entitled to take their share of federal dollars to the school or program of their choice (within the limits of state constitutions and laws).
2. **Allow all states to participate in Straight As.** The committee-approved bill allows only 15 states to apply for this flexibility. All states should have the option of boldly slashing federal restrictions in return for guaranteed gains in student achievement.
3. **Eliminate duplicative programs in ESEA and focus the law on a few key national goals.** Since the HELP Committee failed to make substantive changes in the ESEA's underlying structure, Congress should restructure these programs to emphasize key national objectives. Legislation has been introduced by Senators Joseph Lieberman (D–CT) and Evan Bayh (D–IN) to accomplish this, but their measure merely consolidates and streamlines many programs, leaving numerous strings in place while adding red tape. A better approach would be to craft a refined (and deregulated) version of this plan.

In the end, the goal should be an ESEA plan that respects state and local rights but also empowers parents—especially low-income parents—and is based on real accountability for academic results. The plan now before the Senate takes a few small steps in this direction. Long strides are needed.

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NOTE: Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.